	Case 5:11-cv-02057-LHK Document 147 Filed 03/21/13 Page 1 of 2
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9	IN THE UNITED STATES DISTRICT COURT
10	FOR THE NORTHERN DISTRICT OF CALIFORNIA
11	JASON MCCORD PATTEN,) No. C 11-2057 LHK (PR)
12	Plaintiff,) ORDER DISMISSING) DEFENDANT DR. C. STONE
13	v.)
14	DR. C. STONE, et al.,
15	Defendants.
16	
17	Plaintiff, a state prisoner proceeding pro se, filed a second amended civil rights
18	complaint ("SAC") pursuant to 42 U.S.C. § 1983 challenging the conditions of his confinement
19	at San Quentin State Prison. (Doc. No. 102.) The Court ordered service of Plaintiff's SAC upon
20	the named Defendants. (Doc. No. 107.) A Notice of Lawsuit and a Request for Waiver of
21	Service of Summons were mailed to Defendant Dr. C. Stone. (Doc. No. 108.) The documents
22	were unable to be delivered to Defendant Dr. C. Stone because "he no longer works for the
23	California Department of Corrections and Rehabilitation." (Doc. No. 114-1.) On February 1,
24	2013, Plaintiff was ordered to provide the Court with an accurate current location for Defendant
25	Dr. C. Stone such that the Marshal could serve Defendant. Plaintiff was advised that if he failed
26	to provide the Court with an accurate current location for Defendant Dr. C. Stone within thirty
27	days, Plaintiff's claims against Defendant Dr. C. Stone would be dismissed without prejudice
28	Order Dismissing Defendant Dr. C. Stone G:\PRO-SE\SJ.LHK\CR.11\Patten057dism4a_Stone.wpd

Case 5:11-cv-02057-LHK Document 147 Filed 03/21/13 Page 2 of 2

1 pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. In response to the Court's Order, 2 Plaintiff submits that Defendant Dr. C. Stone can be located at San Quentin State Prison, Main 3 Dental Clinic. (Doc. No. 141.) However, the information provided by Plaintiff is neither new 4 nor different than the information previously provided and therefore does not help to facilitate 5 service. Although a plaintiff who is incarcerated and proceeding in forma pauperis may rely on 6 7 service by the Marshal, such plaintiff "may not remain silent and do nothing to effectuate such 8 service"; rather, "[a]t a minimum, a plaintiff should request service upon the appropriate 9 defendant and attempt to remedy any apparent defects of which [he] has knowledge." Rochon v. 10 Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). Plaintiff's complaint has been pending for over 120 days. Plaintiff has not provided 11 sufficient information to allow the Marshal to locate and serve Defendant Dr. C. Stone. For the 12 13 reasons stated above, **Defendant Dr. C. Stone** is **DISMISSED** pursuant to Federal Rule of Civil 14 Procedure 4(m). 15 IT IS SO ORDERED. 3/20/13 DATED: 16 17 United Styles District Judge 18 19 20 21 22 23 24 25 26 27

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